

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 FANNY MARGARITA PALACIOS-IBARRA,)
 et al.,)
)
 Defendants.)
 _____)
 This Order Pertains to:)
)
 GERSON NUNEZ [D-02])
 _____)

No. 3:99-cr-0036-HRH

O R D E R

Scheduling and Related Matters

On January 2, 2008, defendant Gerson Nunez moved for resentencing pursuant to 18 U.S.C. § 3582(c)¹ and for the appointment of counsel.² The motion for appointment of counsel was granted.³ The motion for resentencing was denied with leave to renew on or after March 3, 2008.⁴

¹Docket No. 660.

²Docket No. 661.

³Docket No. 662.

⁴Id.

In due course, counsel was designated and appeared,⁵ and counsel served and filed a motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c).⁶ As a consequence of discussions between counsel and defendant, counsel moved to withdraw defendant's motion to reduce sentence⁷ and the court granted that motion.⁸ Counsel then moved to withdraw as attorney for defendant⁹ and the court simultaneously received defendant's pro se, renewed motion for modification of sentence pursuant to 18 U.S.C. § 3582(c).¹⁰ The latter motion incorporated a further request that defendant's presentence report be amended, that the court grant defendant immediate release, that the court permit defendant to proceed pro se, and that the court remove designated counsel from the case.

Counsel's motion for leave to withdraw is granted. As a consequence, defendant's pro se motion for the removal of counsel is moot.

⁵Docket No. 669.

⁶Docket No. 670. Defendant currently contends that designated counsel did not timely address his concerns about a possible reduction of sentence. Defendant's concern about the timeliness of counsel's action is without merit inasmuch as the motion to reduce sentence was filed on March 3, 2008, the day upon which the guidelines reducing sentences for crack cocaine became effective.

⁷Docket No. 673.

⁸Docket No. 678.

⁹Docket No. 679.

¹⁰Docket No. 681.

It is further ordered that proceedings on defendant's renewed motion for modification of sentence shall be as follows:

- (1) Defendant's request to proceed pro se is granted.
- (2) Defendant's request for immediate release is denied.
- (3) The request for amendment of defendant's presentence report is denied at this time. However, the court will take this matter up again at a later date if proceedings beyond a simple sentence reduction pursuant to 18 U.S.C. § 3582(c) is contemplated.
- (4) The Government shall respond to defendant's renewed motion on or before April 30, 2008.
- (5) Defendant may reply within 21 days from the filing of the Government's response.
- (6) The court will schedule a hearing, if necessary, after the briefing is completed.

DATED at Anchorage, Alaska, this 2nd day of April, 2008.

/s/ H. Russel Holland
United States District Judge